

Ordinance Creating Five County Charter Officers

Executive Summary Prepared by Shelby County Attorney (08-13-08)

This ordinance seeks to cure any potential deficiencies in the Shelby County Charter similar to those found in the Knox County Charter by the Tennessee Supreme Court. If approved by the voters, the amendments proposed by this ordinance become effective September 1, 2010 as to the Shelby County Sheriff, Trustee, Register, and County Clerk; but do not become effective until September 1, 2012 as to the Shelby County Assessor. The amendments can be summarized as follows:

1. The county charter offices of Shelby County Sheriff, Shelby County Trustee, Shelby County Register, Shelby County Clerk, and Shelby County Assessor ("Charter Officers") are created and established to replace the respective former constitutional county officers.
2. The duties and functions performed by the respective former constitutional county officers are assigned to the new Charter Officers.
3. Qualifications for holding Charter Offices are the same as the qualifications under state law for holding the respective former constitutional county offices. In addition to the state law qualifications, the Sheriff must have at least three years experience as a CEO of a jail or prison or be a Certified Corrections Executive. If not, the Sheriff's compensation will be reduced.
4. Charter Officers must be elected by the voters to a four-year term, with the exception of the 2012 election of the Assessor. The Assessor will serve a two-year term from 2012 to 2014, then four-year terms thereafter so as to be on the same election cycle as the other Charter Officers.
5. Charter Officers will not have term limitations unless this ordinance is amended or a separate ordinance proposes term limits.
6. Vacancies in the Charter Offices will be filled by the chief deputy designated in writing to the County Attorney. The chief deputy will serve as interim Charter Officer until a successor is elected during the next countywide election.
7. Charter Officers may be removed from office in the same manner provided for in state law for other public officials.
8. Charter Officers may be recalled from office as provided for in Article V. Ordinance No. 361, approved by the voters on August 7, 2008, amends Article V to provide for recall of Charter Officers.

9. Duties of the Charter Officers are governed by the Tennessee Constitution, general state laws, and the Shelby County Charter.
10. Charter Officers are given the same titles as the respective former constitutional county officers.
11. Charter Officers must carry out all duties, functions, and obligations of the respective former constitutional county officers, unless the Charter provides otherwise.
12. Charter Officers have all rights, power and authority granted to the respective former constitutional county officers, unless excluded by the Charter.
13. With the exception of the Sheriff, Charter Officers are denied the right to file salary petitions to challenge the personnel budget as approved by the County Commission. The Sheriff is granted the right to file an administrative petition to be determined by arbitration.
14. All private acts and County ordinances applicable to the respective former constitutional county officers continue to apply to Charter Officers, unless contrary to the Charter or repealed or amended.
15. Compensation of the Charter Officers is determined by the same method for determining the compensation of the respective former constitutional county officers, with the exception of the Sheriff. The Sheriff's compensation must be equal to at least 80%, but no more than 95%, of the County Mayor's compensation, but will be reduced if the Sheriff fails to meet the qualifications for holding office (e.g., work experience or certification). The manner and amount of reduction in compensation for the Sheriff is the same as that for reducing the compensation of the former constitutional county Sheriff for failure to possess a current and valid peace officer certification.
16. Article IV of the Shelby County Charter is entitled "Judicial Branch, Law Enforcement and Corrections." Section 4.06 establishes the constitutional county Sheriff as the chief law enforcement officer. This is contrary to the amendments proposed by this ordinance, so Section 4.06 should be repealed and the title of Article IV changed to "Judicial Branch."